

S/N 10/748,712
Attorney Ref. No. 659-1149
Client Ref. No. 18,666

REMARKS:

Remarks About Rejection under 35 USC 103/102(e):

The Examiner has rejected all pending claims under 35 USC 103 as being obvious over U.S. Patent No. 6,755,808 to Balogh. At the outset, Applicants note that Balogh is a reference applied under 35 USC 102(e). Pursuant to 35 USC 103(c), however, subject matter which qualifies as prior art under 35 USC 102(e) "shall not preclude patentability under [35 USC 103] where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." Accordingly, pursuant to the following statement, Balogh should not be applied as prior art and the rejection should be withdrawn (MPEP 706.02(1)(2)).

Statement About Common Ownership:

Applicants' undersigned attorney hereby states that the present application (S/N 10/748,712) and USP 6,755,808, and the application (S/N 10/053,251) underlying the '808 patent, were, at the time the invention of the present application (S/N 10/748,712) was made, owned by or subject to an obligation of Assignment to, Kimberly-Clark Worldwide, Inc.

Remarks About Rejections Under 35 USC 103/102(a):

Applicants note that the application underlying the Balogh patent published May 8, 2003 as Publication No. US 2003/0088230 A1, making the publication eligible as prior art under 35 USC 102(a). While the Examiner has not presently applied the Balogh publication in the outstanding Office Action, Applicants hereby submit a Declaration under 37 CFR 1.131 to preclude such an application in the

S/N 10/748,712
Attorney Ref. No. 659-1149
Client Ref. No. 18,666


future. The Declaration establishes invention of the subject matter of the present application prior to the May 8, 2003 effective date of the Balogh publication.

Applicants note that the Declaration is signed by all of the inventors except Mr. Paul Hasler, who is, at the present time, either unavailable or refuses to sign the Declaration. As set forth in MPEP 715.04, the "signature of the remaining inventors [is] sufficient." In addition, Applicants have submitted a Declaration of Facts executed by the undersigned Attorney setting forth the steps taken to locate Mr. Hasler. In the event that the undersigned attorney receives a signed Declaration from Mr. Hasler, Applicants will submit such Declaration forthwith.

Conclusion:

For all of the reasons set forth above, Applicants submit that the outstanding rejections have been overcome and earnestly solicit notice to that effect. Any questions concerning this Response should be directed to the undersigned attorney at (312) 321-4713.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew D. Stover", is written over a horizontal line.

Andrew D. Stover
Registration No. 38,629
Attorney for Applicant

Date: June 20, 2006

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200